

MONTGOMERY COUNTY ORDINANCE

ORDINANCE REGULATING THE SITING OF WIND ENERGY CONVERSION SYSTEMS

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I. INTRODUCTION

A. Title

This Ordinance shall amend the original Montgomery County Ordinance Regulating the Siting of Wind Energy Conversion Systems dated June 9, 2009 and be known, cited and referred to as the Montgomery County Ordinance Regulating the Siting of Wind Energy Conversion Systems.

B. Purpose

The purpose of this ordinance is to facilitate the construction, installation, operation, and decommission of Wind Energy Conversion Systems (WECS) in Montgomery County, Illinois in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. This ordinance will promote the supply of wind energy in support of Illinois' statutory goal of increasing energy production from renewable energy sources. This ordinance shall not apply to personal or business wind energy development for the primary use of self-sustaining energy. This ordinance is not intended to replace safety, health, or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not nullify any provisions of local, state, or federal law.

II. DEFINITIONS

- A. **"Applicant"** means the entity or person who submits to the County, pursuant to Section VI of this Ordinance, an application for the siting of any wind energy conversion system (WECS) or Substation.
- B. **"Application"** means the request for the Wind Energy Conversion System (WECS) permit must be submitted on the application form maintained by the County. Application may be modified from time to time by the County in order to provide sufficient information for permitting decisions to be made.
- C. **"Authorized Agent"** means personnel authorized by the Montgomery County Board Chairman.
- D. **"Capability"** means the ability, knowledge, experience, resources and financial viability to complete the project.
- E. **"Decommissioning"** means to return the property or site back to its pre-installation state or better as approved in the decommissioning plan.

- F. **"Deconstruction"** means breaking an object down or disassembling a large object into smaller parts.
- G. **"Distance"** Measured as feet on a level plane.
- H. **"Financial Assurance"** means reasonable assurance from a credit worthy party or parties satisfactory to the County that any and all damages due to construction, operation, maintenance, and decommission/deconstruction caused by the wind energy project will be repaired and that the project will be decommissioned/deconstructed. Examples of such include a performance bond, surety bond, trust instrument, cash, escrow, and/or irrevocable letter of credit.
- I. **"Hearing Facilitator"** means the county may unilaterally engage the services of a hearing facilitator not affiliated with any pro wind or anti wind group to preside over any required hearings resulting from the siting approval application.

Process: The hearing facilitator shall be an independent contractor who shall conduct a hearing in accordance with all applicable rules of the board and county but with no adjudicatory responsibility other than ruling on request for continuances, procedural matters, admissibility of evidence and the propriety of any arguments. Upon conclusion of the evidence and final arguments, the County Board Coordinating Committee with outside professional advice as required will prepare and submit "findings of fact" and a final recommendation to the county board. The hearing facilitator shall be an attorney, licensed to practice in the State of Illinois, jointly selected by the state's attorney (or his designee) and the Montgomery County Economic Development chairperson and appointed by the chairman of the county board with the consent of the county board. The applicant shall reimburse the county for the fees and costs charged by the facilitator.
- J. **"L.A."** refers to "Local Authority". Local Authority is the representative of the applicable government body.
- K. **"Licensed Illinois Professional Engineer"** means a qualified individual who is licensed as a professional engineer in the State of Illinois.
- L. **"Licensed Illinois Structural Engineer"** means a qualified individual who is licensed as a structural engineer in the State of Illinois.
- M. **"Like-kind replacement"** means a WECS tower which meets or exceeds the standards and specifications of the tower being replaced and complies with the applicable terms and conditions of this ordinance.
- N. **"Maximum height"** means the height measured from the tip of the rotor blade at its highest point to the top surface of the WECS foundation.
- O. **"MET"** means a measurement tower, or met mast as a free standing tower, or a removable mast, which carries measuring instruments with meteorological instruments such as thermometers and instruments to measure wind speed.

- P. **"Nonfunctioning wind turbine"** means a wind turbine or component that is not able to generate electricity for six continuous months.
- Q. **"Operating Permit"** means a permit that must be issued after the project is substantially complete, according to approval by the County's designee, to produce and sell wind generated power.
- R. **"Operator"** means the entity responsible for the day-to-day operation and maintenance of the WECS, including any third-party subcontractors.
- S. **"Owner"** means the entity or entities with an equity interest in the WECS(s), including their respective successors and assignees or an entity that becomes an owner through foreclosure. Owner does not mean (i) the property owner from whom land is leased for locating the WECS (unless property owner has an equity interest in the WECS); or (ii) any person holding a security interest in the WECS(s) solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS(s) at the earliest practicable date.
- T. **"Primary Structure"** means, for each property, the structure that one or more persons occupy the majority of time on that property for either business or personal reasons. The term "primary structure" includes structures such as residences, commercial buildings, hospitals, churches, day care facilities, schools, and agricultural buildings/structures.
- U. **"Rotor Diameter"** means the diameter of the circle created by rotating turbine blade tips.
- V. **"Set-Back"** means the minimum distance from a property line, margins of any public road or high water mark of any lake available for public use, stream banks and drainage ditches from which the WECS tower and/or substation is located. The setback set forth herein shall be measured from the exterior of the foundation of the WECS tower.
- W. **"Shadow Flicker"** means the phenomena that occurs when rotating wind turbine blades cast moving shadows upon stationary objects.
- X. **"WECS (Wind Energy Conversion System) CONSTRUCTION Permit"** means the formal approval of the application by the County Board or its designee.
- Y. **"Substation"** means the apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection with the utility's transmission lines.
- Z. **"Wind Energy Conversion System" ("WECS")** means all necessary devices that together convert wind energy into electricity, including the rotor, blades, nacelle, generator, WECS Tower, electrical components, WECS foundation, oils, fluids, transformer, and electrical cabling from the WECS Tower to the Substations.

AA. **"WECS Project"** means the collection of WECS and Substations as specified in the structural improvement application.

BB. **"WECS Tower"** means the support structure to which the nacelle and rotor are attached.

III. APPLICABILITY

This Ordinance governs the siting of WECS(s) and Substations that generate electricity to be sold to wholesale or retail markets, except that owners of WECS(s) with an aggregate generating capacity of 3MW or less who locate the WECS(s) on their own property as an end user are not subject to this Ordinance.

IV. PROHIBITION

- A. No WECS or substation governed by Section III of this Ordinance shall be transported, constructed, erected, installed, located or operated within Montgomery County, unless:
 - 1. WECS Construction Permit Application Approval has been granted by the County Board or its designee and WECS Construction Permit has been issued by the Montgomery County Assessor's Office;
 - 2. Road Upgrade and Maintenance Agreements have been entered into for each applicable governmental agency;
 - 3. a WECS Construction Permit has been obtained for each individual WECS tower and Substation pursuant to this Ordinance;
 - 4. applicant has provided the County with notification of MET towers being placed.

V. PERMITTING

- A. The County Board or their authorized agent shall not approve any permit until a public hearing is held. A public hearing will only be held when a properly submitted and completed application is accepted by the County. Notice of the hearing shall be published by the Montgomery County Clerk's Office on the Montgomery County website as well as in a newspaper of general circulation in Montgomery County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included. At least 90 days prior to the submission of any WECS application, the applicant shall make a reasonable effort to inform members of the public of the proposed project. Mailings and notices of public community meetings or open houses shall also be sent out to landowners and residences within the footprint and to landowners and residences within 1.5 miles of the proposed outside boundary of the project. These mailings should make reference to where additional information can be obtained regarding the proposed project. Advertisements in local newspapers and at least one community meeting are also required.
- B. After the public hearing is held, there will be a thirty (30) day period for public comments and concerns to be submitted in writing to the County.

- C. A WECS project or any WECS project component development in the un-incorporated areas of Montgomery County shall be required to obtain permits and provide fees as applicable to Montgomery County.
- D. The County Board or its authorized agent may request final site inspection(s) before the operating permit is issued.
- E. An emergency contact name and phone number must be posted at the point of access on all WECS project developments.
- F. The County will schedule inspections with the operator at the Chairman of the County Board's discretion. The cost of such inspection will be borne by the operator.
- G. The permit holder will allow the County or its Authorized Agent access to the property within 30 days of an inspection request by the County. In the event of an emergency, the County or its Authorized Agent has the right to access the premises.
- H. The provisions of this Ordinance shall be administered and enforced by personnel of the Montgomery County Board or their Authorized Agents.

VI. WECS CONSTRUCTION PERMIT APPLICATION

- A. The Applicant must submit an application to the County Economic Development Committee for review and recommendation to County Board. Approval or Denial of application will be made by the full County Board.
- B. The Application shall contain or be accompanied by the following information:
 - 1. A WECS Project summary, including, to the extent available: (1) a general description of the project; the potential equipment manufacturers, types of WECS(s), number of WECS(s), and name plate generating capacity of each WECS; the maximum height of the WECS Towers and maximum diameter of the WECS(s) rotors; the general location of the project; and (2) a description of the Applicant, Owner and Operator, including their respective business structure;
 - 2. The names, addresses, and phone numbers of the applicant(s), owner(s) and operator(s), and all property owners who have signed a lease agreement; and information as to whether the petitioner or applicant is acting for himself or herself or as an agent, alter ego, or representative of a principal and the name and address of the principal; whether the petitioner or applicant is a corporation and of all stockholders or shareholders owning any interest in excess of 20 percent of all of the outstanding stock or shares of the corporation; whether the petitioner or applicant, or his or her principal, is a business or entity doing business under an assumed name, and if so, the name and residence of all actual owners of the business or entity; whether petitioner or applicant, or his or her principal, is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners or member of the partnership, joint venture, syndicate, or unincorporated voluntary association.
 - 3. Applicant must provide sufficient documentation showing that a public meeting has been held and that all landowners and residents within 1.5 miles of the project footprint and within the project footprint have been properly notified.
 - 4. A site plan for the installation of WECS(s) showing the planned location of each WECS tower, guy lines and anchor bases, primary structures, property lines (including

identification of adjoining properties), setback lines, public and private access roads and turnout locations, substations, electrical cabling from the WECS tower to the substations, ancillary equipment, third party transmission lines, any above or below ground transmission lines related to the project, operations and maintenance building(s), layout of all structures within the geographical boundaries of any applicable setback, and the location of any construction staging areas including concrete batch plants. The size and locations of any road(s), lake(s), pond(s), or streams touching on said parcel or parcels of land shall be included.

5. Individual inventory designations for each separate WECS and Substation for reference in WECS Construction Permits;
 6. All required studies, reports, certifications, waivers and approvals demonstrating compliance with the provisions of this Ordinance.
 7. An Ecological Compliance Assessment Tool (EcoCAT) compliance.
 8. A storm water pollution and prevention plan.
 9. A decommissioning plan.
 10. Any other information normally required by the County as part of its Siting Ordinance.
 11. Sufficient documentation that the applicant, owner, company and parent company/companies have the capability to complete the WECS project as proposed.
 12. If the Applicant intends to offer a "good neighbor plan," a "property value guarantee plan" or any other financial incentive plan in connection with a proposed WECS project, a copy of such plan shall be included with the application at the time the application is submitted.
 13. Financial Assurance in the form of an irrevocable letter of credit to assure the construction, installation and completion of the project or improvements. Such Financial Assurance (Irrevocable Letter of Credit) shall be provided by the Applicant prior to approval to the full County Board and shall be in such amount as is determined to be 110% of the estimated WECS Project cost.
 14. Upon submittal of an application for a WECS, the Applicant shall submit a certified check to Montgomery County in the amount of \$50,000. This amount shall be placed in a guaranteed money market account that will be used to cover the County's cost incurred during the application review. Should the actual costs to the County exceed \$50,000, the Applicant shall be responsible for those costs and shall remit additional funds within 15 days of the notice from the County. Any amount remaining in the account after the County renders its decision and all bills and invoices have been paid shall be refunded to the applicant. The Applicant shall file ten copies of the application upon submittal of the application Fee.
- C. If the application is determined by County staff, the County Economic Development Committee, or the County Board not to be complete in all pertinent aspects of the section of the Montgomery County Ordinance, the application shall be rejected and a new application will need to be filed.
- D. Application shall comply with the standards established by this Ordinance.
- E. All copies of the proposed project Construction documents (plans and project manual) must be submitted, signed and sealed by a professional engineer licensed in the State of Illinois.

- F. The Applicant shall promptly notify the County Economic Development Committee of any changes to the information provided in their WECS project plans/application that occur while the application is pending. The Applicant shall not be allowed to materially change the application after the hearing process has started. Whether a change is a material change or not shall be determined by the County Board Coordinating Committee.
- G. The County Board shall require an independent engineer, chosen by the County Board, to review plans at the petitioner's expense. Findings by the independent engineering firm are to be submitted to the County Coordinating Office.
- H. Any order, requirement, decision or determination of the Montgomery County Board and/or Authorized Agent adverse to the interest of an applicant for a WECS Construction Permit shall be provided to the applicant in writing by certified mail, return receipt requested.
- I. Following application approval, the Applicant is eligible to apply for WECS Construction Permit.
- J. Actual on site construction must commence within one year of application approval by the County Board; if not completed or otherwise, permits will no longer be valid.
- K. The Montgomery County Assessor's Office shall maintain a record of all Wind Energy Conversion Systems (WECS) Construction Permits and copies shall be furnished upon request to any interested person.
- L. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
- M. The failure to obtain the required WECS Construction Permit shall be a Violation of this Ordinance. Further, WECS Construction permits shall be issued on the basis of applications approved by the Montgomery County Board and shall authorize only the use, arrangement, and construction applied for and approved. Any use, arrangement or construction not in compliance with that authorized shall be a violation of this Ordinance.

VII. DESIGN AND INSTALLATION

A. Design Safety Certification

- 1. WECS shall conform to applicable industry standards, including those of the American National Standards Institute ("ANSI"). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories ("UL"), Det Norske Veritas ("DNV"), Germanischer Lloyd Wind Energy ("GL"), or an

equivalent third party. For the avoidance of doubt, the provision of a design compliance certificate from any one ANSI, UL, DNV, or GL shall be deemed to satisfy this requirement.

2. Following the granting of application approval under this Ordinance, a Structural Engineer shall seal site specific design of the foundation and tower with local soil and subsurface conditions indicated on plans.
3. To ensure that the subsurface conditions of the site will provide proper support for the WECS, the applicant at their expense, shall provide soil and geotechnical boring reports for each WECS Tower location to the independent engineer selected by the County Board for review and comment prior to the issuance of any WECS Construction Permit.

B. Controls and Brakes

WECS(s) shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip, tilt and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

C. Electrical Components

All electrical components of the WECS shall conform to applicable local, state, and national codes and to relevant national and international standards (e.g. ANSI and International Electrical Commission). Utility lines connecting the towers, substations, etc., shall be placed underground where practical. All electrical wire and lines connecting WECS to another WECS or substation must be installed no less than 6 (six) feet deep. The owner/operator of the WECS Installation shall be a member of J.U.L.I.E and follow their rules and regulations. During the installation and before wires and lines are covered, there will be an inspection for compliance by an independent inspector chosen by the County and paid for by the Owner/Operator.

D. Color

Towers and blades shall be painted white or gray or another non-reflective, unobtrusive color.

E. Compliance with the Federal Aviation Administration

The Applicant for the WECS shall comply with all applicable Federal Aviation Administration (FAA) requirements.

F. Warnings

1. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and Substations.
2. An emergency sign listing the 911 address which conforms to the specifications of the County Ordinance for size, color, and reflectivity shall be placed and maintained by the owner/operator at the entrance to each WECS access road from a public road. A sign or posting no more than four (4) square feet in area shall be placed and maintained in conjunction with, but in a subordinate position of, that same emergency sign and shall provide the tower number(s) and a toll-free telephone number, answered by a live operator twenty-four hours a day seven days per week, for emergency calls and informational

inquiries. A non-emergency phone number for the operator shall also be displayed. These phone numbers shall remain active with all calls being voice recorded for verification purposes and with comments and complaints logged and reported to the Montgomery County Coordinator on a monthly basis. The recorded calls shall be maintained for at least 12 months. Current phone numbers shall be maintained. Local Agency response shall be reimbursed by the project owner(s).

3. Upon completion of the construction of an approved WECS project, a reasonable visible sign to warn people to not approach a turbine while operating must be placed at the entrance of each access road.
4. Warning signs identifying underground wire locations shall be placed at all road crossings, creek, waterway, and ditch crossings, and at the base of WECS Towers. All underground wire locations shall be GPS mapped and given to the L.A.
5. The signs in subparagraphs (F)(2), (3) and (4) above shall be made with letters and numbers at least three inches in height.

G. Climb Prevention

All WECS Towers must be unclimbable by design or protected by anti-climbing devices such as:

1. Fences with locking portals at least eight feet high; or
2. Anti-climbing devices 12 feet vertically from the base of the WECS Tower.
3. The fencing/gates shall be maintained in serviceable condition. Failure to maintain the fencing/gating required hereunder shall constitute a violation of this Ordinance.
4. All gates to the fences of all WECS(s) towers, equipment, and any components shall be equipped with locks and shall remain locked at all times except for those times when the owner and/or operator or their respective agents is/are using the gate for ingress and/or egress or is/are otherwise present and monitoring the Wind Energy Conversion System and its equipment/components.
5. Manufacturer recommendations supersede the above requirements.

H. Setbacks

1. All WECS Towers shall be set back a distance of at least one thousand (1,000) feet from adjacent property lines. The affected adjacent property owner may waive this setback requirement.
2. All WECS Towers shall be set back a distance of at least 1.25x the height of the WECS tower from the right of way of public roads and railroads and utility easement boundaries.
3. All WECS Towers shall be set back a distance of the greater of 1750 feet or the manufacturer's safety distance for ice shedding and blade throw from a primary structure. The distance for the above setback shall be measured from the edge of the primary structure foundation closest to the WECS tower to the edge of the WECS tower foundation. The owner of the primary structure may waive these setback requirements but in no case shall a WECS tower be located closer to a primary structure than 1.25x the WECS tower height.
4. An incorporated village or municipality must approve of the location of any tower to be located within 1.5 miles of the corporate limits of such incorporated village or municipality.

5. No part of a WECS tower or foundation shall affect the operation of a public or private sewage disposal (septic system) or water well.
6. All WECS substations shall be set back a minimum of 1,750 feet from a primary structure.
7. A two-mile radius around an existing private airstrip recognized by the FAA will be left free of wind turbines. The airstrip owner may waive this regulation subject to FAA requirements.
8. Above ground transmission facilities and transmissions poles shall be set back 150 feet from any portion of the edge of a primary structure. The affected adjacent property owner may waive this setback requirement.
9. All WECS Towers shall be 1.5 miles from any school property line. The affected school district may waive this setback requirement.
10. The Applicant does not need to obtain a variance from the County upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setback requirements shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
11. New structures, specifically those built after a wind turbine is sited and operational, and adjacent to wind power facilities shall maintain the same setbacks from those facilities as those facilities themselves are required to observe hereunder.

I. Agriculture Damage Repair

All damages to waterways, drainage ditches, field tiles, or any other infrastructures caused by the construction, maintenance, or decommissioning of the WECS must be completely repaired or replaced to an acceptable state within a reasonable amount of time determined by the property owner.

J. Use of Public Roads

1. An Applicant, Owner, or Operator proposing to use any County, Municipality, Township, or Village road(s) for the purpose of transporting WECS or Substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or Substation(s), shall:
 - a. Identify all such public roads intended for use including a site layout plan showing the applicable tower sites, public road network used, access road entrances, underground collection system and power transformer sites; and
 - b. Identify all agencies involved; and
 - c. Enter into legal agreement concerning road upgrade and maintenance with each of the affected jurisdictions and relevant government agencies.
 - d. Obtain applicable weight and size permits from relevant government agencies prior to construction and/or maintenance activities.
2. To the extent an Applicant, Owner, or Operator must obtain a weight or size permit from the local agency of jurisdiction, the legal agreement shall:
 - a. Conduct a pre-construction and/or pre-maintenance baseline survey to determine existing road conditions and right of way conditions and assess for potential future damage;
 - b. Identify necessary heavy and oversized equipment and materials over roads which may in certain cases be in excess of the design limits of the roads;

- c. Widen, modify and/or improve roads including culverts, bridges, road shoulders and other related fixtures to permit such equipment and materials to pass;
- d. Outline exact routes intended for construction and/or maintenance use;
- e. Detail of maintenance responsibility and method of reimbursement if it is deemed the L.A. responsibility;
- f. Expectations of the L.A. when road reconstruction is involved;
- g. Easement on private property will be the sole responsibility of the Applicant, Owner, or Operator;
- h. Outline of time schedule including any and all provisions during seasonal road postings;
- i. Outline any and all permits required for entrance off the L.A. roads;
- j. Provide financial assurance (refer to definition H) in the form of a sufficient cash escrow to be held by the Montgomery County Treasurer's Office for the purpose of repairing any damage to public roads caused by constructing, operating, or maintaining the WECS and its included equipment. This estimate will be determined by a Licensed Illinois Professional Engineer chosen by the County and paid for by the Applicant, Owner, or Operator;
- k. Provide the County Coordinator's Office with a signed copy of any agreements pertaining to the use of public roads prior to the issuance of WECS Construction Permits;
- l. Identify any special issues which may affect the public health, safety, and welfare;
- m. Limitation on Liability Clause.

K. Height

~~The permitted maximum height of a WECS shall be 500 feet. State and Federal Regulations may require a lesser height. To the extent feasible, the WECS Project shall consist of turbines of similar design and size, including tower height. All WECS(s) and transmissions poles shall be constructed with self-supporting, tubular towers or a monopole structure. Lattice towers will not be accepted.~~

1. The permitted maximum height of a WECS shall be 500 feet. State and Federal Regulations may require a lesser height. All WECS(s) and transmission poles shall be constructed with self-supporting, tubular towers or a monopole structure. Lattice towers will not be accepted.

2. Waiver of maximum height. The County Board or their designated representative may consider an Application for and ultimately shall act to either approve or disapprove a Maximum WECS Height Waiver for a WECS Project. The applicant is required to justify the need for any tower height above 500 feet and the applicant will bear all costs required for the County Board or their designated representative to properly review said Application. Should such Waiver be ultimately approved, it shall be approved only for the Applicant and only for the singular WECS Project for which the Application is made. It is not transferrable to other entities or WECS Projects. Such a Waiver shall be for a singularly specified Maximum Height and shall not be for an Unlimited, a Range, or Unspecified Maximum Height.

3. Effect of Maximum WECS Height Waiver on Setbacks prescribed in Paragraph VII, H.

- a. Setbacks as prescribed in this ordinance are based on the Maximum WECS Height of 500 feet. Any increase in WECS Height over 500 feet also impacts Setback distances and requires that those distances specified in feet be recomputed. This does not apply to any setback referenced in miles, the setback for transmission poles; or the setback for a substation.
- b. The prescribed footage of WECS setback shall be increased by the same percentage that the WECS height is increased over 500 feet. For example, were a 600 foot WECS requested, that equals a 20% increase over 500 feet. The resultant Setback from Property Lines (Para VII, H, 1) will increase also by 20% from 1,000 feet to 1,200 feet. The Primary Structure Setback (Para VII, H, 3) will increase from 1,750 to 2,100 feet yet still being required to be the greater of 2,100 feet, or the manufacture's safety distance for ice shedding and blade throw from a primary structure. Any other Setback computation that references 1.25x the WECS Tower Height will be computed using the final approved WECS Tower Height.
- c. WECS Tower Height of less than 500 feet use the Setbacks provided herein as published.
- d. An Application for Maximum WECS Height Waiver shall be submitted concurrently with the Project Application for new WECS projects. Modifications prior to construction shall be submitted as an entirely new Application for Waiver. Existing facility upgrades will also require an engineering plan to bring the project into meeting revised setback requirements as would a WECS project modification.
- e. Should the Application for WECS Height Waiver be submitted after Public Hearings for the WECS project have been held, the County Board reserves the right to conduct additional Public Hearings if deemed necessary and appropriate at the Applicant's expense.
- f. A WECS Maximum Height Waiver Application is provided as an Appendix to this Ordinance. The application may be administratively changed from time to time to facilitate the collection of information deemed necessary in order for the County Board or their designated representatives to render informed recommendations and decisions.
- g. Approved Waivers are subject to revocation for cause by the Applicant's, successor's or their agents failure to comply with laws, regulations, rules, fines or decommissioning escrow account requirements.

L. Lighting

A lighting plan for each WECS and WECS Substation shall be approved by the designated engineer. The WECS Project shall utilize minimal lighting. No tower lighting other than normal security lighting shall be permitted except as may be required by the FAA. Such plan must describe all lighting that will be used, including any lighting that may be required by the FAA. Such a plan shall include but is not limited to the planned number and location of lights, light color and where any lights will be flashing. Strobe lights are discouraged; and if they are

required by the FAA, they must be shielded from the ground. The lighting should be planned and developed in such a way as to minimize the visual impact of the structures. A consideration of synchronized lighting shall also be part of any lighting plan. This WECS substation lighting plan shall include plans as to how glare from these lights is being controlled.

M. Minimum Rotor or Wind Vane Clearance

The lowest point of the arc created by rotating wind vanes or blades on a wind turbine generator shall be no less than 20 feet measured from the highest point of the terrain within one blade radius from the base of the tower.

N. Compliance

1. All wind farm developments are to be in compliance with an Agriculture Impact Mitigation Agreement (AIMA), as approved by the State of Illinois.
2. Wind Energy Conversion Systems (WECS) must comply with site assessment that is intended to protect agricultural soils.
3. Wind Energy Conversion Systems (WECS) developer(s) shall be required to initiate a natural resource review consultation with the IDNR (Illinois Department of Natural Resources) through the department's online, EcoCAT (Ecological Compliance Assessment Tool) program. Areas reviewed through this process will be reviewed for endangered species and wetlands. The cost of the EcoCAT consultation will be borne by the developer(s).
4. Wind Energy Conversion Systems (WECS) are subject to the State of Illinois Storm Water Management regulations, erosion and sediment control provisions if adopted, and NPDES permit requirements.

O. Project Changes

If the company proposes to make a change in the project during construction, including but not limited to moving a turbine siting more than 50 feet from the original site plan, then the company, through the use of a qualified professional, shall appropriately demonstrate compliance the WECS Construction permit.

VIII. OPERATION

A. An operating permit shall be obtained from the county prior to start of operation of the WECS.

B. Maintenance

1. The Owner or Operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the County. In addition to the above annual summary, the Owner or Operator must furnish such operation and maintenance reports as the County reasonably requests. It is understood that nothing in this Section VIII (A)(1) shall be construed so as to require any Owner or Operator of the WECS to violate any non-disclosure or confidentiality covenant that the Owner or Operator may have with (i) its equipment supplier(s), (ii) the purchasers of electricity and/or environmental attributes from the WECS, or (iii) any debt or equity financier of the WECS.
2. To the extent that, under Section VIII (A)(1) of this Ordinance, any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical

components so that such modification requires re-certification from the original third-party certifying entity of the WECS (i.e. DNV, GL, UL, etc.), then the Owner or Operator of the WECS shall obtain such re-certification certificates. Like-kind replacements shall not require re-certification. Prior to making any physical modification (other than a like-kind replacement), the owner or operator shall confer with a relevant third-party certifying entity in accordance with this Ordinance to determine whether the physical modification requires re-certification.

3. Any replacement of equipment that is not a like-kind replacement shall require an amendment to the WECS Construction Permit.
4. The County Coordinating Office shall be advised in writing within ninety (90) days by the Wind Energy Conversion System (WECS) operator or property owners (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.

C. Interference

1. The Applicant shall provide the applicable microwave transmission providers and local emergency service provider(s) (911 operators) copies of the project summary and site plan (or various project summaries and site plans if the Applicant should seek approval of differently sized projects and/or projects constructed with differing wind turbine generators) to the extent that:
 - b. the above provider(s) demonstrate a likelihood of interference with its communications resulting from the WECS(s) and
 - c. the United States Federal Communication Commission ("FCC") agrees with such demonstrated interference, then the Applicant shall take all measures prescribed by the FCC to mitigate or eliminate such anticipated interference in compliance with then-existing, FCC-promulgated regulations. If, after construction of the WECS, the Owner or Operator receives a written complaint from the FCC related to the above-mentioned, or any other type of interference with the regulated airwaves, the Owner or Operator shall take all steps required by the FCC to mitigate or eliminate such complaint. All interference issues must first be taken to the Owner or Operator for consideration before going to the FCC.
3. Prior to construction of the WECS, the owner or operator shall conduct a study related to interference with local broadcast residential television and wireless internet services; if it is demonstrated a likelihood of interference may result from the WECS, then the applicant shall take measures to mitigate such anticipated interference.
4. If, after construction of the WECS, the Owner or Operator receives a written complaint related to interference with local broadcast residential television, wireless internet services, or any other regulated airwave, the Owner or Operator shall take all steps required by the FCC to respond to the complaint, such as providing alternate service to each individual resident or property owner affected until such a time that alternate equivalent quality and cost for service is available to owner.

D. Coordination with Montgomery County Emergency Management Agency

1. The Applicant, Owner or Operator shall submit to the local EMA a copy of the site plan. In addition to the site plan, a plan pertaining to the planning, response, recovery, and mitigation of any natural or manmade hazard that may affect the WECS development must be negotiated.
2. Upon request by the local fire department or EMA, the Owner or Operator shall cooperate with the local fire departments/EMA to develop an emergency response plan. In addition, at no cost to the local fire departments, the Owner or Operator shall provide to the local fire departments/EMA any and all specialized and necessary rescue or retrieve equipment occasioned by the use of the particular wind turbine generators being used at the project (i.e. gurney, body harnesses, etc.) In addition, the Owner or Operator shall have the responsibility to update--at no cost to the local fire departments/EMA--any such equipment in possession of the local fire departments/EMA as any updates are received by the Owner or Operator in the normal course of business.
3. Nothing in this section shall alleviate the need to comply with all other applicable fire laws and regulations.

E. Materials Handling, Storage, and Disposal

1. All solid and liquid wastes related to the construction, operation, and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and local laws.
2. A list of all hazardous solids and/or liquids that may be used on site shall be provided. All hazardous materials both liquid and solid related to the construction, operation and maintenance of the WECS shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws.
3. Hazmat Directors shall be notified of the handling, storage, transportation, and disposal of any and all hazardous materials.

IX. NOISE LEVEL

The noise emitted by the WECS shall not exceed 35 decibels during the hours of 7:00 AM to 10:00 PM and 30 decibels during the hours of 10:00 PM to 7:00 AM or state statute, whichever is less. The sound measurements must also be "A" weighted for consideration of the low frequency sound pressure. The non-participant property owner may waive this requirement.

Should the County Board determine that noise emissions appear to exceed allowable levels, an acoustic engineering firm shall be hired by the County and paid for by the Owner of the WECS facility to determine compliance. If at any time throughout the life of the WECS project, the noise levels are found to not be in compliance with this section, the applicant, owner, or operator of the WECS project will immediately shut off enough turbines to ensure that the noise levels are within acceptable levels until a solution to the noise level violations is found and approved by the county after a hearing with the County Board Coordinating Committee.

X. SHADOW FLICKER

There shall be no shadow flicker allowed at any time within a one (1) mile radius of a WECS on a non-participant's property or on a participant's primary structure. The non-participant property owner and/or participant may waive this requirement.

XI. BIRDS, BATS, AND OTHER WILDLIFE

A licensed ornithologist or wildlife biologist shall conduct an avian and bat habitat study as part of the siting approval application process to determine if the installation of WECS will have an adverse impact on birds and bats. The study must contain a plan for minimizing impact during the migration of birds and bats.

A licensed wildlife biologist shall conduct a wildlife habitat study on all other ground dwelling wildlife present in the county to determine if the installation of WECS will have an adverse impact on the animals. The study must contain a plan for minimizing impact on their habitats as well as eliminating any possibility of adverse effects on the animals themselves.

XII. PUBLIC PARTICIPATION

Nothing in this Ordinance is meant to augment or diminish existing opportunities for public participation. At least 90 days prior to the submission of any WECS application, the applicant shall make a reasonable effort to inform members of the public of the proposed project. Mailings and notices of public community meetings or open houses shall be sent out to landowners and residences within the footprint and to landowners and residences within 1.5 miles of the proposed outside boundary of the project. These mailings should make reference to where additional information can be obtained regarding the proposed project. Advertisements in local newspapers and at least one community meeting are also required. Community meetings pertaining to the proposed project are also required to be posted on the Montgomery County website.

XIII. LIABILITY INSURANCE

The Owner or Operator of the WECS(s) shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$10 million per occurrence and \$40 million in the aggregate, with an annual certificate of insurance being provided to the Montgomery County Coordinator's Office, with the county being added as an additional insured, with the designation of primary and non-contributory.

The Applicant shall promptly increase such liability insurance if such amount is increased in the WECS Ordinance and the applicant is notified in writing of same by the county. The applicant shall provide evidence of such increased insurance to the Montgomery County Economic County Coordinator.

Insurance coverage shall be maintained without interruption from the date of permitting through the lifetime of the WECS project. Certificates of insurance acceptable to the county and in compliance with this section shall be filed with the county prior to the commencement of any work on the WECS and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required under this section shall contain a provision that coverages afforded under the policies shall not be cancelled or allowed to expire until at least 60 days' written notice has been given to the county.

Applicant shall also, to the fullest extent permitted by law, indemnify, and hold the county, its employees, board members, and agents harmless for any action due to or arising out of the

construction, maintenance, decommissioning, deconstruction, and/or operation of the WECS, including the payment of any attorney's fee and costs arising out of any action due to or arising out of the construction, maintenance, decommissioning, and/or operation of the WECS.

XIV. DECOMMISSIONING PLAN/DECONSTRUCTION PLAN

Decommissioning will apply to all WECS projects and its equipment/components. Prior to receiving Siting Approval under this Ordinance, the County, the Applicant or Owner, and/or Operator (Applicant) must agree to a Decommissioning Plan/Deconstruction Plan that ensures the WECS Project is properly decommissioned/deconstructed upon the end of project life or facility abandonment.

- A. The WECS project applicant, project owner, and/or property owner shall include a decommissioning plan with:
 1. the anticipated life expectancy of the wind energy project(s),
 2. the anticipated cost of decommissioning in current dollars at the WECS project applicants expense,
 3. as well as the funding method(s), for the decommission and restoration of the project site to its original, natural condition prior to the wind energy development.
 4. Financial Assurance funds will be held in a mandatory WECS Project Decommissioning Escrow Account at the Montgomery County Treasurer's Office.
 5. Provisions describing the triggering events for decommissioning the WECS project.
 6. The cost estimate of decommissioning will be completed by a licensed Illinois Professional Engineer chosen by the County at the WECS project applicant's expense. Payment for said engineer's fee to prepare decommissioning cost estimates is not included in the initial application fee. The decommissioning cost estimate will be reviewed at a minimum every 5 years, by the County's chosen Independent Licensed Illinois Professional Engineer, and revised if necessary, at the Developers expense. The review and revised plan shall be sent to the County Board Coordinating Committee for review.
 - a. Cost estimates shall include: removal of WECS tower/turbine, and all transmission equipment, buildings, and fences; removal of all structures, debris, cabling and all physical material pertaining to the project improvements to a depth of seventy-two (72) inches beneath the soil surface. Estimates shall also include provisions for the restoration of the soil surface to the same condition that existed immediately before construction of said project as well as repairs to be made to bring roads back to the same condition as they were immediately preceding actual decommissioning; any associated expenses such as operating night time warning lights during the six (6) month period the Project may be abandoned; and the like.
 - b. An initial cash deposit equal to 25% of the most current cost estimate of decommissioning for each WECS tower and associated infrastructure shall be placed in the WECS Project Decommissioning Escrow Account at the Montgomery County Treasurer's Office. The cash deposit shall increase in 25% increments upon each five-year review period, reaching 100% at year 15 and beyond. The difference between the 100% decommissioning estimate and the cash held in escrow shall be financially secured through a performance bond furnished by the project owners to the county. Said

- securities shall be released when each WECS tower site and associated infrastructure are completely decommissioned and the road repairs are properly completed as determined by the Montgomery County Board or its designated L.A., all affected public road authorities, and final approval by the Montgomery County Board.
- c. The county reserves the right to require more frequent decommissioning estimates and cash escrow requirements based on changing economic conditions.
- B. The plan shall include provisions for removal of all structures, WECS towers/turbines, transmission equipment, buildings, fences, cabling, debris, foundations, and physical material pertaining to the project. The plan will also include provisions for restoration of soil and vegetation and a plan ensuring financial resources will be available to fully decommission the site. Disposal of structures and/or foundations shall meet the provisions of the Illinois Environmental Protection Agency.
1. All solid and liquid wastes shall be disposed of in accordance with all local, state, and federal laws.
 2. All hazardous materials shall be handled, stored, transported, and disposed of in accordance with all applicable local, state, and federal laws. EMA and HazMat Directors shall be notified of the handling, storage, transportation and disposal of any and all hazardous materials.
 3. At the completion of the projects' lifespan, the wind energy project operator shall notify the County Coordinating Office and then has twelve (12) months from that date to decommission the site(s).
- C. The County Board Coordinating Committee shall be advised in writing within ninety (90) days by the WECS project operator or property owner (whichever entity/party holds the development and building permits) in the event the project is sold or otherwise transferred to another entity/party and/or the current operator/owner abandons the project.
1. If the site is damaged or nonfunctioning for any reason, the WECS project operator shall have six (6) months to bring the project back to its operational capacity. If for any reason the WECS tower is not operational or able to generate electricity after six (6) months, the operator/owner shall have six (6) months to complete decommissioning of the WECS tower and its equipment unless the operator has shown to the County Board Coordinating Committee that it is diligently repairing such WECS tower or component.
 2. In the event of abandonment of the project, the applicant shall provide an affidavit to the County Board Coordinating Committee representing that all easements for wind turbines and their components shall contain terms that provide financial assurance, including access to the salvage value of the equipment, and for the property owners to ensure that the WECS and related improvements are properly decommissioned within six (6) months of abandonment or earlier termination of the wind project. In the event of abandonment of the project or its equipment/components, the project site property owner/leaseholder shall bear ownership of the WECS and all of its equipment/components located on the property. The property owner of the project site shall bear the decommissioning costs in excess of escrow funds.
 3. In the event of bankruptcy or similar financial default of the WECS project, the county shall use the decommissioning escrow funds to the greatest extent possible. There may remain unresolved site issues beyond the scope of the county's ability to fund. Such issues shall remain the responsibility of the property owner.

4. A provision that the terms of the Decommissioning Plan shall be binding upon the Applicant and any of their successors, assigns, or heirs.
5. The County may sell any salvage material to reduce the County's expenses related to decommissioning of any project site and shall be granted access to each site to affect or complete decommissioning.

XV. FEE SCHEDULE

Upon submittal of a Siting Application for a WECS, the Applicant shall submit a certified check to Montgomery County in the amount of \$50,000. This amount shall be placed in a guaranteed money market account that will be used to cover the County's cost incurred during the application review. Should the actual costs to the County exceed \$50,000, the applicant shall be responsible for those costs and shall remit additional funds within 15 days of the notice from the County. Any amount remaining in the account after the County renders its decision and all bills and invoices have been paid shall be refunded to the applicant. The county requests that applicant file ten copies of the Siting Application upon submittal of the Application fee.

The Operating Permit Fee for WECS shall be \$5,000.00.

If actual onsite construction has not started within one year of the approved application, the permits are no longer valid and all fees are forfeited.

XVI. PUBLIC NUISANCE DEFAULTS AND REMEDIES

- A. Any WECS declared to be unsafe by the Montgomery County Board or its designee by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage, or abandonment is hereby declared a Public Nuisance and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures set forth in this ordinance.
- B. The Applicant's, Owner's, or Operator's failure to materially comply with any of the above provisions shall constitute a default under this Ordinance.
- C. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the Owner and Operator, setting forth the alleged default(s). Such written notice shall provide the Owner and Operator a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).
- D. If the County determines that the parties cannot resolve the alleged defaults within the good faith negotiation period, the County shall make application to the circuit court for an injunction requiring conformance with this Ordinance or make such other order as the court deems necessary to secure compliance with the Ordinance.
- E. Any violation of this Ordinance shall be an offense punishable by a fine. Each violation shall be a separate offense. Each day a violation occurs or continues shall be a separate offense. A court may set any appropriate per day fine for each day the infraction exists or until such infraction is remedied. It is the goal of this Ordinance to promote structural safety to protect the public. The Court has the authority to set any appropriate fines and will consider the nature of the offense, the degree of public safety involved, and the efforts of the County and responsible owner or applicant to quickly and safely resolve any and all infractions. It is the intent that any

dispute between the parties be resolved promptly and where possible by informal discussions as outlined elsewhere in this ordinance.

- F. The County reserves the right to hire outside Counsel to enforce this Ordinance. The Owner/Operator is liable for payment of reasonable Attorney's fees in this regard.
- G. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy violations. All costs connected therewith shall accrue to the Applicant, Owner, or Operator responsible for the Project.

XVII. SEVERANCE

If any section, clause, or provision of the Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

XVII. LEGAL PROVISION

- A. Amendments: The Montgomery County Planning Commission may review this document and make recommendations for revision to the Montgomery County Board as necessary. Board may periodically amend the terms of this ordinance, but no amendment shall become effective unless it has been proposed by or has been submitted to the Planning Commission for review and recommendation. The Planning Commission shall have forty-five (45) days from the time the proposed amendment is submitted to provide its report to the Economic Development Committee. The County Board shall adopt no amendment until they have held a public hearing about the amendment. Notice of the hearing shall be published in a newspaper of general circulation in Montgomery County at least once a week for two (2) successive calendar weeks prior to the hearing. The initial notice shall be published the first time not less than ten (10) days or more than twenty-five (25) days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.
- B. Abrogation: This section does not apply to any current municipal zoning requirements. It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
- C. Penalties for Violations: After the effective date of this ordinance, any persons who, being the owner or agent of the owner of any land, or project developer, located within the territorial jurisdiction of this ordinance, thereafter proceeds with development of a Wind Energy Conversion System (WECS) prior to being approved under the terms of this ordinance shall be fined. Further, violators of this ordinance shall be subject to a fine of \$1,000 for the each violation and \$500 for each additional month the violation is not corrected. The County Coordinating office will be notified of any violations and the County Chair will enforce penalties.

XIX. IDEMNIFICATION

The Applicant, Owner, and/or Operator of the WECS project shall defend, indemnify and hold harmless the County of Montgomery and its officials from and against any and all claims, demands, losses, suites, causes of action, damages, injuries, costs, expenses, and liabilities whatsoever, including attorney's fees, without limitation arising out acts of omissions of the Applicant, Owner, and/or Operator associated with the construction and/or operation of the WECS project.

After the effective date of this ordinance, no proposed WEC, as defined in this ordinance and within Montgomery County's jurisdiction, shall proceed with construction until it has been submitted to and approved by the Montgomery County Board and/or Designee in accordance with the provisions of this Ordinance.

Appendix A: EXAMPLE WEC Siting Application

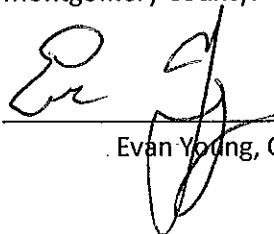
Appendix B: EXAMPLE WEC Construction Permit

Appendix C: EXAMPLE WEC Operating Permit

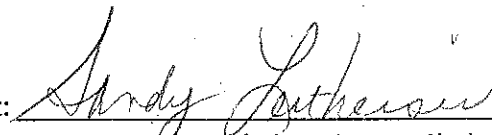
NOW, THEREFORE BE IT ORDAINED that the Montgomery County Board hereby adopts said WECS Ordinance.

BE IT FURTHER ORDAINED that the effective date is immediately upon adoption.

Passed and Adopted, this 10th day of August, A.D. 2021, by the County Board of Montgomery County.



Evan Young, Chairman

Attest: 

Sandy Leitheiser, County Clerk

Montgomery County, State of Illinois
#1 Courthouse Square, Hillsboro, IL 62049
217-532-9530
<http://montgomeryco.com/>

APPENDIX A

PETITION / SITING APPLICATION / REQUEST FOR A WECS (Wind Energy Conversion System) Construction Permit.

It is the responsibility of petitioners or requesters of actions placed before the Montgomery County Board to provide specific information and supporting data regarding proposed actions/projects in sufficient detail that will allow a decision to be made or a final course of action chosen. The Board shall not accept a petition or request as properly filed that is not sufficiently detailed, is missing information required by Ordinance, or does not provide sufficient sealed and signed professional studies, reports, and construction documents to support the request or petition based on the reasoned judgment of the Board. The Board is not responsible to make corrections or revise requests/petitions. Incomplete Applications will be returned.

Certain requests, such as a petition / application for a WECS Construction Permit, requires the Board to conduct a Public Hearing on the matter. No Hearings will be scheduled until such time that petitions/requests have been "Accepted as Properly Filed" by the Board. Similarly, Petitions/Requests shall not be placed on a Board meeting agenda until such time that the petition/request has been "Accepted as Properly Filed" by the Board.

The Date on which the Petition / Application / Request is "Accepted as Properly Filed" constitutes the Legal Beginning Date of any such Construction for all purposes of defining whether a project has been initiated or was in progress in Montgomery County, Illinois.

This petition/application/request for a WECS Construction Permit shall be completed in its entirety and submitted to the Montgomery County Board, #1 Courthouse Square, Hillsboro, IL, 62049. Once the petition / application for a WECS Construction Permit is Accepted as Properly Filed by the Board, the application for a WECS will be reviewed by an independent engineer, appointed by the County at the Petitioner's expense, to determine the impact of the use on public utilities, traffic volume and circulation, impact on near-by properties, compliance with Ordinances and laws, and other lawful factors as may be determined reasonable by the Board based on the individual Petition/Application. The Board, following a Public Hearing, will prepare its Findings of Facts and may then take action regarding issuance of a Construction Permit.

Notice of the Public Hearing.

The County Board shall hold a Public hearing within sixty (60) days of receiving reviewed information from the independent engineer. At the hearing, any interested party may appear and testify, either in person or by duly authorized agent or attorney. Notice indicating the time, date, place, and the nature of the proposed WECS Construction Application shall be given before the hearing by:

1. First class mail to the applicant, and to all parties whose property would be directly affected by the proposed use; and
2. Publication in a newspaper of general circulation within this County; and
3. Publication on a state-wide web site.

The Petitioner / Applicant / Requestor is responsible to mail the notices to the last known property tax bill address by PIN number and submit a Post Office certificate of mailing record to the County, but only after receiving the approved text of the Notice from the County. This is at the Petitioner's / Applicant's / Requestor's sole expense.

Properly completed Applications for a WECS Construction, complete with supporting documentation, are to be submitted to the County Board with sufficient lead time for review based on the complexity of the individual request.

All petitioners, or their representative, must attend the County Board meeting(s) considering their request. If there is no representation, the application may be removed from the agenda and rescheduled.

The Montgomery County Board shall make a decision within sixty (60) days of the Public Hearing.

Anyone with concerns can call the Montgomery County Coordinating office at 217-532-9577.

SECTION BELOW TO BE FILLED OUT BY COUNTY OFFICIAL:

Date first Received by the Office of The Montgomery County Board: _____

Date(s) County Board Date Returned application for more information (if applicable):

Date County Board requested revisions were received (if applicable): _____

Date accepted by County Board as properly filed: _____

Filing fee/application fee of \$50,000.00 via certified check

Date paid: _____ Check number: _____

Date County acceptance letter is sent to Petitioner: _____

Date of required Public Hearing Notice sent to Petitioner: _____

Date(s) published and where published:

Date notices sent: _____ Public hearing date: _____

County Board determination: _____

APPLICANT & PROPERTY OWNER INFORMATION (Print or Type):

Applicant/Petitioner information: _____

Company Name: _____

Contact Name and Title: _____

Phone number: _____

Mailing address for all official correspondence unless a Legal Representative is designated, in which case all correspondence and contact will be made with that Legal Representative:

_____ Zip: _____

Property Owner Name(s): _____

Phone number: _____

Mailing address: _____ Zip: _____

Designated Legal Representative (*licensed to practice law in the State of IL*) of Applicant (*if any*)

Name: _____ Phone: _____

Address: _____ Zip: _____

Designated Contact Person (*if different from Applicant*), to whom all phone calls, requests for information, clarifications, and ~~coordinator~~ coordination for all actions regarding this Petition, who has the authority to act on behalf of the Petitioner in regard to this Petition/Application/Request. *This does not apply if a Legal Representative has been designated in which case all contact will be made through that Legal Representative.*

Name: _____ Phone: _____

Address: _____ Zip: _____

PROPERTY INFORMATION:

Note: If additional space is needed, please attach additional sheets to the application and reference attachment description in application.

1. Location of the proposed use or structure, and its relationship to existing adjacent uses or structures:

2. Legal Description and Acreage:

3. Area and dimensions of the site for the proposed structure(s) or uses.

4. Present Use of property:

5. Present Land usage:

6. Proposed Land Use Activity / Nature of the Proposed Use, including type of activity, manner of operation, number of occupants or employees, and similar matters:

7. Height, setbacks, and property lines of the proposed uses and/or structure(s).

8. Location and number of proposed parking/loading spaces by type of vehicles, to include Weight Classifications and size of access drives/ways.

9. Existing and proposed screening, lighting (including intensity) landscaping, erosion control, and drainage features on the site, including the parking areas.

10. Disclosure of any potential environmental issues and methods for dealing with them.

11. Disclosure of any activities requiring outside agency permits and the names, addresses, and phone numbers of the agency points of contact and how those requirements are being met.

12. Indicate the suitability of the property in question for Construction:

13. ADJACENT LAND USE:

- A. North:

- B. South:

- C. East:

- D. West:

14. Should this Use be valid only for a specific time period? Yes

 No

If Yes, what length of time?

15. Does the proposed Permit meet the following standards? Yes

 No

(If not, attach a separate sheet explaining why.)

- A. Will the proposed design, location and manner of operation of the proposed WICS (Wind Energy Conversion System) adequately protect the public health, safety and welfare, and the physical environment?

- B. Will the proposed WICS (Wind Energy Conversion System) have any known negative impact on the value of neighboring property?

- C. Will the proposed WICS (Wind Energy Conversion System) have a negative impact on public utilities and on traffic circulation?

- D. Will the proposed WICS (Wind Energy Conversion System) have an impact on the facilities near the proposed WICS, such as schools or hospitals or airports that require special protection?

ATTACHMENTS REQUIRED:

1. At the time the application is filed, a \$50,000 fee is to be paid by the applicant via certified check.
2. For entities governed by governing boards, a copy of the Board Resolution or Board Meeting Minutes authorizing the governing board's approval to carry out the requested project and to authorize the submission to Montgomery County by a designated entity officer of the required specific requests / applications / petitions is required to be submitted.
3. An area map and site plan from a certified Illinois licensed Engineer.
4. List of the names, current property tax addresses and property tax PIN numbers of property owners located within five hundred feet (500') of the property.
5. A Decommissioning Plan as required by the ordinance (see section XIV.)

CERTIFICATION OF A WECS PERMIT PETITION / APPLICATION / REQUEST

I/We the undersigned, agree that the information herein and attached is true. I/We, the undersigned, do hereby permit officials and/or consultants of Montgomery County, to enter the property described herein to complete a thorough review of this application.

Applicant's Printed/Typed Name: _____

Signature: _____ Date: _____

Property Owner's Printed/Typed Name: _____

Signature: _____ Date: _____

Applicant's Legal or other Representative's Printed/Typed Name (if applicable): _____

Signature: _____ Date: _____

STATEMENT OF CONFORMANCE:

I/We, the undersigned, in making a Petition/ Application / Request to Montgomery County for approval of a WECS Construction Permit described in this application have reviewed the laws and regulations of Montgomery County to the extent that they are applicable to this proposal and understand that: I/We, the undersigned have no reasonable expectation of approval of this request until such time that a WECS Construction Permit is actually issued by the Montgomery County and have been so notified of issuance in writing. I/We hereby acknowledge, attest to, and accept the following as conditions of obtaining a WECS Construction Permit in Montgomery County, Illinois.

- **NO** building, construction, alteration, or use may be started prior to the issuance of a WECS Construction Permit.
- **All** building construction and all site construction must conform to the plans and specifications approved by the Montgomery County Board. No deviation from or revision to an approved plan may take place without the prior written approval of the Montgomery County Board.
- Any Permit, once issued, is non-transferrable to any other legal entity without the express prior written approval of the Montgomery County Board.
- That **ALL** actions associated with this Permit process shall be taken, processed, and interpreted under the Laws of the State of Illinois and Montgomery County and any legal remedies sought by any party in connection with this WECS Construction Permit shall be brought forth in the Courts of Montgomery County, Illinois for adjudication.
- That if the applicant is an Agent representing the actual owners of multiple properties, or is a lessor, that the Agent has in his/her possession signed documentation that the actual property owners are aware of their legal responsibilities to be personally liable for the costs associated with Decommissioning if said lessor or Agent fails for any reason to meet this requirement of the WECS Construction Permit.

Applicant's Printed/Typed Name: _____

Signature: _____ Date: _____

Applicant's Legal Representative Printed/Typed Name Signature and Date (If applicable):

Signature: _____ Date: _____

NOTE: It is the responsibility of the Applicant to notify the Montgomery County Coordinating Office at each stage of work completed once the Permit is issued.

APPENDIX B

Notification of WECS Construction Permit – Montgomery County, Illinois

All persons shall be required to post notice, on site, of a WICS construction in unincorporated areas of Montgomery County. Failure to file a Notification of WICS Construction Permit prior to starting construction shall constitute an offense punishable by fine up to \$500.00 each day in which work proceeds and each day following completion of the structure shall constitute a separate offense.

Step 1 - Supervisor of Assessments Office of Building Construction/Improvement

Phone: 217-532-9595 / Sup of Assessments #1 Courthouse Square 3rd floor, Hillsboro, IL 62049

Company Name of Applicant/Petitioner: _____

Contact Name and Title: _____

Mailing Address: _____

Phone Number: _____ Email: _____

Property No.: _____ Notification No.: _____

Name of Property Owner(s): _____

Current Address: _____ City: _____ State: _____ Zip: _____

Property owner Phone No.: _____ Alternate No.: _____

Estimated Start Date: _____ Cost Estimate: \$ _____

Legal Description

Township Name: _____ Sec: _____ Twp: _____ Range: _____

Legal Description: _____

Lot/Land Size: _____ Tax Group Code No: _____

This acknowledgement satisfies the Montgomery County Notification Process.
All other city, township, subdivision and state ordinances must be followed!

Signature: _____ Date: _____

Step 2 - Highway Dept. Engineer to obtain Flood Plains & Subdivision Approval

Phone: 217-532-6109 / Mont. Co. Highway Engineer, 1215 Seymour Av, Hillsboro, IL 62049

Is the proposed development within or near the approximate floodplain as shown on FEMA Flood Hazard Boundary Maps? ☐ Yes ☐ No ☐ N/A

- If yes, the developer must obtain a Development Permit from the Montgomery County Highway Engineer prior to starting any construction.

○ Has a development permit been approved? ☐ Yes ☐ No ☐ N/A

Signature: _____ Date: _____

Step 3 - New 911 address (each WECS tower will need a 911 address)

Phone: 217-532-9563 / Mont. Co. 911 Coordinator, 140 N. Main St., Hillsboro, IL 62049

Your new locatable 911 address is: _____

Address: _____ City: _____ Zip Code: _____

Emergency Response Agencies: _____

Ambulance Agency: _____ Police Agency: _____ Fire Agency: _____

Is a paid Fire Contract required to have this fire department respond? ☐ Yes ☐ No

Contact Phone Number for Fire Protection Contract: _____

Signature: _____ Date: _____

Upon completing construction of the facility, the Applicant/Petitioner must inform the Assessor's office and request an Operating Permit, prior to any production or sale of wind generated power. (APPENDIX C)

Contact Name and Title:

Mailing Address:

Phone Number: _____ Email: _____

Land Owner Name(s) if different from Company Name:

Mailing Address:

Phone Number: _____

Conditions of Permit:

In applying for and obtaining a WECS (Wind Energy Conversion Systems) Permit from the Montgomery County Assessor's Office, the Applicant agrees to comply with the laws, rules and regulations set forth by the State of Illinois and the Montgomery County WECS Ordinance. The permit is subject to revocation for failure to comply with laws, rules, regulations and fines.

Montgomery County, State of Illinois
#1 Courthouse Square, Hillsboro, IL 62049
217-532-9530
<http://montgomeryco.com/>

APPENDIX D
WECS Application to Waive the Permitted 500 Foot Maximum WECS Height

APPLICANT & PROPERTY OWNER INFORMATION (Print or Type):

Applicant/Petitioner information: _____

Company Name: _____

Contact Name and Title: _____

Phone number: _____

Mailing address for all official correspondence unless a Legal Representative is designated, in which case all correspondence and contact will be made with that Legal Representative:

_____ Zip: _____

Property Owner Name(s): _____

Phone number: _____

Mailing address: _____ Zip: _____

Designated Legal Representative (*licensed to practice law in the State of IL*) of Applicant (*if any*)

Name: _____ Phone: _____

Address: _____ Zip: _____

Designated Contact Person (*if different from Applicant*), to whom all phone calls, requests for information, clarifications, and coordination for all actions regarding this Petition who has the authority to act on behalf of the Petitioner in regard to this Petition/Application/Request. *This does not apply if a Legal Representative has been designated in which case all contact will be made through that Legal Representative.*

Name: _____ Phone: _____

Address: _____ Zip: _____

The Applicant hereby requests that the County Board waive the 500 foot Maximum WECS Height to allow the construction and use of WECS that will be _____ Feet Tall. This Waiver is requested for WECS Project _____

Operating Permit Number (if Applicable) _____

Located in the general geographic vicinity of _____ in _____ Township, Montgomery County Illinois.

This Application is made as part of a _____ New WECS Project _____ an Upgrade to an Existing WECS Project that has _____ Not Yet Been Approved _____ Already been approved on _____.

The Applicant shall pay for all costs associated with the consideration, evaluation, and decision process upon presentation to the Applicant of an invoice from the Office of the Montgomery County Board, regardless of whether the Waiver is approved or disapproved. Engineering Plans that demonstrate compliance with revised Setbacks are attached to this Application. It is agreed that requests for further information may be made by the County Board or their designated representative. Such information when requested shall be provided the requestor as soon as practicable. Failure to provide such information would be grounds for immediate disapproval of the Waiver request.

Applicant fully understands that even if a waiver is approved that it is subject to revocation for cause by the Applicant's, successor's or their agents failure to comply with laws, regulations, rules, fines or decommissioning escrow account requirements.

I/We the undersigned, agree that the information herein and attached is true. I/We, the undersigned, do hereby permit officials and/or consultants of Montgomery County to enter the property described herein to complete a thorough review of this application.

Applicant's Printed/Typed Name: _____

Signature: _____ Date: _____

Property Owner's Printed/Typed Name: _____

Signature: _____ Date: _____

Applicant's Legal or other Representative's Printed/Typed Name (if applicable): _____

Signature: _____ Date: _____

SECTION BELOW TO BE FILLED OUT BY COUNTY OFFICIAL:

Date first Received by the Office of The Montgomery County Board: _____

Date(s) County Board Date Returned application for more information (if applicable): _____

Date County Board requested revisions were received (if applicable): _____

Date accepted by County Board as properly filed: _____

Filing fee/application fee of \$50,000.00 via certified check

Date paid: _____ Check number: _____

Date County acceptance letter is sent to Petitioner: _____

Date of required Public Hearing Notice sent to Petitioner: _____

Date(s) published and where published:

Date notices sent: _____ Public hearing date: _____

County Board determination: _____
